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TO: UNITED STATES PATENT AND TRADEMARK OFFICE

GROUP ART UNIT: \_\_\_\_\_

NAME: Board of Patent Appeals and Interferences

FAX NO.: (703) 308-7952

SERIAL NO.: 09/090,071

OUR FILE NO.: LUTA 0177 PUS

BOARD OF PATENT  
APPEALS &  
INTERFERENCES  
JUL 27 2004

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copy of returned receipt postcard, and Board of Patent Appeals Docketing Notice

Signature

James Kallis

Typed or Printed Name of Attorney/Agent

**BROOKS | KUSHMAN**  
INTELLECTUAL PROPERTY LAW

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July 27, 2004

**VIA FACSIMILE**  
(703 308-7952)

Board of Patent Appeals and Interferences  
United States Patent & Trademark Office  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

Re: **Appeal Number 2004-1569; Paper No. 39**  
**Appellant: Miller, Robin**  
**Serial No. 09/090,071**  
**Our File No.: LUTA 0177 PUS**

BOARD OF PATENT  
APPEALS &  
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JUL 27 2004

Dear Sir:

The Docketing Notice for the above-identified patent application mailed on June 29, 2004 contains an error. The error is that the Notice indicates that no Reply Brief was filed and the Notice further indicates that a Request for Hearing was filed on November 24, 2003.

The Applicant notes that a Reply Brief was filed on November 24, 2003 and that no Request for Hearing was filed. As such, the Docketing Notice erroneously indicates information regarding the Reply Brief and a Request for Hearing. A marked-up Docketing Notice is attached to show the error.

Also attached is a copy of the Reply Brief filed on November 24, 2003 along with a copy of a returned postcard evidencing receipt of the Reply Brief by the Patent Office.

The Applicant requests that the Board consider the Reply Brief as well as the Appeal Brief. The Applicant confirms that there is no Request for Hearing.

Board of Patent Appeals and Interferences

July 27, 2004

Page 2

Patent Office personnel including Program and Resource Administrators are welcome to contact the undersigned if there are any questions or any further material is needed.

Very truly yours,

**BROOKS KUSHMAN P.C.**

  
James Kallis

JNK/jr  
Enclosures



United States Patent and Trademark Office

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LUTAO177/11567

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BROOKS KUSHMAN P.C. / LEAR CORPORATION  
1000 TOWN CENTER  
TWENTY-SECOND FLOOR  
SOUTHFIELD MI 48075-1238Paper No.: 39  
Appeal No: 2004-1569  
Appellant: MILLER, ROBIN MIHEKUM  
Application: 09/090,071

## Board of Patent Appeals and Interferences

### Docketing Notice

Application 09/090,071 was received from the Technology Center at the Board on 21-May-04 and has been assigned Appeal No: 2004-1569.

A review of the file indicates that the following documents have been filed by applicant:

Appeal Brief filed on: 8/20/03

Reply Brief filed on: None

Request for Hearing filed on: 11/24/203

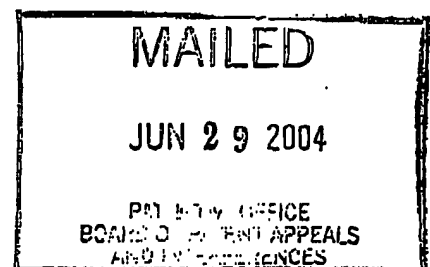
In all future communications regarding this appeal, please include both the application number and the appeal number.

The mailing address for the Board is:

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The facsimile number of the Board is 703-308-7952. Because of the heightened security in the Washington D.C. area, facsimile communications are recommended. Telephone inquiries can be made by calling 703-308-9797 and should be directed to a Program and Resource Administrator.

6657 Morton

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Kd 7/27/04

The "Received" Stamp of the Patent  
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Reply Brief Under 37 C.F.R. § 1.193

**DESCRIPTION  
OF PAPER:**

**NAME OF  
APPLICANT:** Robin M. Miller

**INTF. OR  
SERIAL NO.:** 09/090,071

**MAILING  
DATE:** November 20, 2003

**ATTY:** JNK

**FILE NO.:** LUTA 0177 PUS (11567)



2003 NOV 28 PM 2:10

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INTELLECTUAL PROPERTY LAW

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Southfield, Michigan 48075-1238 USA

4075+1123



**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re application of:

ROBIN M. MILLER

Serial No.: 09/090,071

Filed: June 3, 1998

Group Art Unit: 2674

Examiner: Nguyen, Kevin M.

For: HEADS-UP DISPLAY WITH IMPROVED CONTRAST

Attorney Docket No.: LUTA 0177 PUS (11567)

**REPLY BRIEF UNDER 37 C.F.R. § 1.193**

Mail Stop Appeal Brief - Patents  
Commissioner for Patents  
U.S. Patent & Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

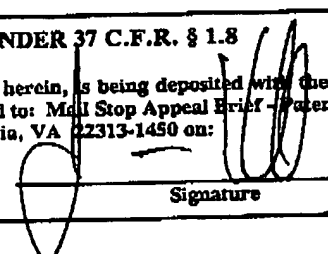
This Reply Brief is in reply to the Examiner's Answer mailed on November 13, 2003. The Examiner's Answer is in response to the Supplemental Appeal Brief III filed by the Applicant on August 14, 2003.

**CERTIFICATE OF MAILING UNDER 37 C.F.R. § 1.8**

I hereby certify that this paper, including all enclosures referred to herein, is being deposited with the United States Postal Service as first-class mail, postage pre-paid, in an envelope addressed to: Mail Stop Appeal Brief - Patents, Commissioner for Patents, U.S. Patent & Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450 on:

November 20, 2003  
Date of Deposit

James N. Kallis  
Name of Person Signing

  
Signature

U.S.S.N. 09/090,071

Atty. Docket No. LUTA 0177 PUS (11567)

**Applicant's Reply to (11) Examiner's Response to Argument**

The claimed invention generally differs from any combination of Fukatsu and Kadomuki in that a fill pattern for the HUD is selected dependent upon the texture or structural features of the environmental image in order to contrast the HUD relative to the environmental image. The selected fill pattern for the HUD contrasts to the texture and structural features of the environmental image. (See FIGS. 3A and 3B of the Applicant's disclosure). Neither Fukatsu nor Kadomuki teach or suggest selecting a fill pattern for the HUD dependent upon the texture or structural features of the environmental image in order to contrast the HUD relative to the environmental image.

Specifically, Kadomuki does not teach or suggest selecting a fill pattern for a HUD which contrasts to either the texture and structural features of an environmental image. In contrast, Kadomuki teaches controlling the display position, color, or brightness of a HUD dependent upon the color or brightness of an environmental image.

The Examiner posited on pages 3 and 5 of the Examiner's Answer that Kadomuki teaches a HUD including the symbol (B) for selecting an appropriate fill pattern (citing figures 2-5 and pages 9-10) for the symbol dependent upon the landscape, the trees, and the road information in order to contrast sufficiently between the respective colors of the landscape, trees, and the road information relative to a background (citing figures 7-8 and 10 and page 13, line 17 through page 15). The Examiner posited on page 6 of the Examiner's Answer that Kadomuki teaches selecting a fill pattern for the displayed symbol (B) because "the symbol fills and changes pattern of color from bright to dark as shown in figures 3A and 3C" for the HUD dependent upon texture or structural features of the environmental image .

U.S.S.N. 09/090,071

Atty. Docket No. LUTA 0177 PUS (11567)

The claimed invention differs from Kadomuki in two respects. First, the claimed invention determines the texture or structural features of an environmental image as opposed to determining the color or brightness of an environmental image as disclosed by Kadomuki. Second, the claimed invention selects a fill pattern for the HUD symbol as opposed to selecting the position, color, or brightness of the HUD symbol as disclosed by Kadomuki.

With respect to the second respect, the Examiner's contention appears to be that Kadomuki's "symbol fills and changes pattern of color from bright to dark" implies that Kadomuki selects a fill pattern for the HUD symbol. The Applicant disagrees that selecting color and/or brightness is equivalent to selecting a fill pattern. Webster's Dictionary has the following definitions:

the word "fill" as "to take up or occupy all or nearly all the capacity, area, or extent of";

the word "pattern" as being "an arrangement of form; disposition of parts or elements; design";

the word "color" as being "the property of reflecting light of a particular wavelength"; and

the word "brightness" as being "the luminous aspect of a color (as distinct from its hue) which it is regarded as approaching the maximum luminance of pure white or the lack of luminance of pure black."

The Applicant believes that these definitions illustrate that selecting a fill pattern for a HUD symbol is not equivalent to either selecting a color or brightness for the HUD symbol or changing the "pattern of color" of the HUD symbol.

Therefore, the claimed invention is patentable under 35 U.S.C. § 103(a) over Fukatsu and Kadomuki as neither of these references, alone or in combination, teach or suggest



U.S.S.N. 09/090,071

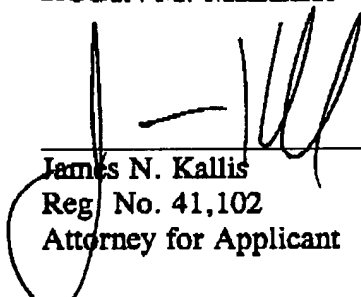
Atty. Docket No. LUTA 0177 PUS (11567)

selecting an appropriate fill pattern for a HUD dependent upon the texture or structural features of an environmental image in order to contrast the HUD relative to the environmental image.

In view of the foregoing, the Applicant respectfully requests that the Appeal Board rule that independent claims 18 and 20 are patentable under 35 U.S.C. § 103(a) over Fukatsu and Kadomuki.

Respectfully submitted,

**ROBIN M. MILLER**



James N. Kallis  
Reg. No. 41,102  
Attorney for Applicant

Date: November 20, 2003

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